## TRUCKING – SINGLE SALES FACTOR APPORTIONMENT SPECIAL REGULATION 6A

The following special rules are established with respect to the apportionment of income for trucking companies:

- 1) **Single Sales Factor Apportionment.** For tax years beginning on or after January 1, 2009, a taxpayer must allocate its nonbusiness income pursuant to §39-22-303.5(5) and regulations thereunder and apportion its business income using the sales factor set forth in this regulation. A taxpayer cannot use this single sales factor apportionment methodology for tax years beginning before January 1, 2009.
  - a) In General. As used in this regulation, the term "trucking company" means a motor common carrier, a motor contract carrier, or an express carrier which primarily transports tangible personal property of others by motor vehicle for compensation. When a trucking company has income from sources both within and without this state, the amount of business income from sources within this state shall be determined pursuant to this regulation. In such cases, the first step is to determine what portion of the trucking company's income constitutes "business" income and what portion constitutes "nonbusiness" income under regulation 39-22-303.5.1A. Nonbusiness income is directly allocable to specific states pursuant to the provisions of §39-22-303.5(5), C.R.S. and regulations thereunder. Business income is apportioned among the states in which the business is conducted and pursuant to the apportionment factor set forth in this regulation. The sum of (i) the items of nonbusiness income directly allocated to this state and (ii) the amount of business income attributable to this state constitutes the amount of the taxpayer's entire net income which is subject to tax in this state.
  - b) **Business and Nonbusiness Income.** For definitions, rules, and examples for determining business and nonbusiness income, see Regulation 39-22-303.5.1A.
  - c) Apportionment of Business Income
    - i) In General. For tax years beginning on or after January 1, 2009, the taxpayer shall apportion business income using only the sales factor.
    - ii) The Sales Factor
      - (1) In General. The sales factor is a fraction, the numerator of which is the sales of the taxpayer in this state during the taxable year and the denominator of which is the sales of the taxpayer within and without this state during the taxable year. All revenue derived from transactions and activities in the regular course of the taxpayer's trade or business that produces business income shall be included in the denominator of the revenue factor.

The numerator of the sales factor is the total revenue of the taxpayer in this state during the income year. The total state revenue of the taxpayer, other than revenue from hauling freight, mail, and express, shall be attributable to this state in accordance with §39-22-303.5(4) and regulations thereunder.

- (2) Numerator of the Sales Factor from Freight, Mail, and Express. The total revenue of the taxpayer attributable to this state during the income year from hauling freight, mail, and express shall be:
  - (a) Intrastate: All receipts from any shipment which both originates and terminates within this state; and,
  - (b) Interstate: That portion of the receipts from movements or shipments passing through, into, or out of this state as determined by the ratio which the mobile property miles traveled by such movements or shipments in this state bear to the total mobile property miles traveled by movements or shipments from points of origin to destination.
- d) **Records.** The taxpayer shall maintain the records necessary to identify mobile property and to enumerate by state the mobile property miles traveled by such mobile property as those terms are used in this regulation. Such records are subject to review by the Department of Revenue or its agents.
- e) **Definitions.** 
  - i) "Mobile property" means all motor vehicles, including trailers, engaged directly in the movement of tangible personal property.
  - ii) A "mobile property mile" is the movement of a unit of mobile property a distance of one mile whether loaded or unloaded.
- f) **De Minimis Nexus Standard.** Notwithstanding any provision contained herein, this Regulation shall not apply to require the apportionment of income to this state if the trucking company during the course of the income tax year neither:
  - owns nor rents any real or personal property in this state, except mobile property; nor
  - ii) makes any pick-ups or deliveries within this state; nor
  - travels more than twenty-five thousand mobile property miles within this state; provided that the total mobile property miles traveled within this state during the income tax year do not exceed three percent of the total mobile property miles traveled in all states by the trucking company during that period; nor
  - iv) makes more than twelve trips into this state.
- 2) Alternative Methodologies. If the apportionment and allocation provisions of this methodology do not fairly represent the extent of the taxpayer's activities in Colorado, the taxpayer may petition for, or the director may require, with respect to all or any part of the taxpayer's business activities, if reasonable, alternative methodologies as set forth in §39-22-303.5(7)(B), C.R.S.